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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 16th
December, 1964:—

BILL No. XXX of 1964

*A Bill to regulate the import, manufacture, sale, transport, distribu-
tion and use of insecticides with a view to prevent risk to human
beings or vertebrate animals, and for matters connected there-
with.*

Be it enacted by Parliament in the Fifteenth Year of the
Republic of India as follows:—

1. (1) This Act may be called the Insecticides Act, 1964.

(2) It extends to the whole of India except the State of Jammu
and Kashmir.

(3) It shall come into force on such date as the Central Govern-
ment may, by notification in the Official Gazette, appoint and differ-
ent dates may be appointed for different States and for different
provisions of this Act.

2. The provisions of this Act shall be in addition to, and not in
derogation of, any other law for the time being in force.

3. In this Act, unless the context otherwise requires,—

(a) "Board" means the Central Insecticides Board consti-
tuted under section 4;

(b) "Central Insecticides Laboratory" means the Central
Insecticides Laboratory established, or as the case may be, the
institution specified, under section 16;

Short
title, ex-
tent and
com-
mence-
ment.

Applica-
tion of
other
laws not
barred.
Defini-
tions.

(c) "import" means bringing into any place within the territories to which this Act extends from a place outside those territories;

(d) "insecticide" means—

(i) any substance specified in the Schedule; or

(ii) such other substances (including fungicides and weedicides) as the Central Government may, after consultation with the Board, by notification in the Official Gazette, include in the Schedule from time to time; or

(iii) any preparation containing any one or more of such substances;

(e) "Insecticide Analyst" means an Insecticide Analyst appointed under section 19;

(f) "Insecticide Inspector" means an Insecticide Inspector appointed under section 20;

(g) "label" means any written, printed or graphic matter on the immediate package and on every other covering in which the package is placed or packed and includes any written, printed or graphic matter accompanying the insecticide;

(h) "licensing officer" means a licensing officer appointed under section 12;

(i) "manufacture" in relation to any insecticide includes—

(i) any process or part of a process for making, altering, finishing, packing, labelling, breaking up or otherwise treating or adopting any insecticide with a view to its sale, distribution or use but does not include the packing or breaking up of any insecticide in the ordinary course of retail business; and

(ii) any process by which a preparation containing an insecticide is formulated;

(j) "misbranded"—an insecticide shall be deemed to be misbranded—

(i) if its label contains any statement, design or graphic representation relating thereto which is false or misleading in any material particular, or if its package is otherwise deceptive in respect of its contents; or

(ii) if it is an imitation of, or is sold under the name of, another insecticide; or

(iii) if its label does not contain a warning or caution which may be necessary and sufficient, if complied with, to prevent risk to human beings or vertebrate animals; or

(iv) if any word, statement or other information required by or under this Act to appear on the label is not displayed thereon in such conspicuous manner as the other words, statements, designs or graphic matter have been displayed on the label and in such terms as to render it likely to be read and understood by any ordinary individual under customary conditions of purchase and use; or

(v) if it is not packed or labelled as required by or under this Act; or

(vi) if it is not registered in the manner required by or under this Act; or

(vii) if the label contains any reference to registration other than the registration number; or

(viii) if the insecticide has a toxicity which is higher than the level prescribed or contains any substance which is not included in the registration and which is likely to involve risk to human beings or vertebrate animals;

(k) "package" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper, or other thing in which an insecticide is placed or packed;

(l) "premises" means any shop, stall or place where any insecticide is sold or manufactured or stored or used, and includes any vehicle carrying insecticides;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "sale", with its grammatical variations and cognate expressions, means the sale of any insecticide, whether for cash or on credit and whether by wholesale or retail, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any insecticide and includes also an attempt to sell any such insecticide;

(o) "State Government", in relation to a Union territory, means the administrator thereof;

(p) "vertebrate animals" includes fish and fowl;

(q) "worker" means a person employed under a contract of service or apprenticeship.

**The
Central
Insecti-
cides
Board.**

4 (1) The Central Government shall, as soon as may be, constitute a Board to be called the Central Insecticides Board to advise the Central Government and State Governments on technical matters arising out of the administration of this Act and to carry out the other functions assigned to the Board by or under this Act.

(2) The matters on which the Board may advise under subsection (1) shall include matters relating to—

(a) the risk to human beings or vertebrate animals involved in the use of insecticides and the safety measures necessary to prevent such risk;

(b) the manufacture, sale, storage, transport and distribution of insecticides with a view to ensure safety to human beings or vertebrate animals.

(3) The Board shall consist of the following members, namely:—

(i) the Director General of Health Services, *ex officio*, who shall be the Chairman;

(ii) the Drugs Controller, India, *ex officio*;

(iii) the Plant Protection Adviser to the Government of India *ex officio*;

(iv) the Director of Storage and Inspection, Ministry of Food and Agriculture (Department of Food), *ex officio*;

(v) the Chief Adviser of Factories *ex officio*;

(vi) the Director, Central Institute of Communicable Diseases, *ex officio*;

(vii) the Director, Indian Standards Institution, *ex officio*;

(viii) the Director General of Shipping or, in his absence, the Deputy Director General of Shipping, Ministry of Transport, *ex officio*;

(ix) the Joint Director, Traffic (General), Ministry of Railways (Railway Board), *ex officio*;

(x) the Secretary, Central Committee for Food Standards, *ex officio*;

(xi) one person to represent the Ministry of Industry, to be nominated by the Central Government;

(xii) one pharmacologist to be nominated by the Central Government;

(xiii) one person who shall be in charge of the department dealing with public health in a State, to be nominated by the Central Government;

(xiv) two persons who shall be Directors of Agriculture in States, to be nominated by the Central Government;

(xv) two persons one of whom shall be an expert in industrial health and occupational hazards, to be nominated by the Central Government;

(xvi) one person to represent the Council of Scientific and Industrial Research, to be nominated by the Central Government.

(4) The persons nominated under clauses (xi) to (xvi) inclusive, of sub-section (3) shall, unless their seats become vacant earlier by resignation, death or otherwise, hold office for three years from the date of their nomination, but shall be eligible for re-nomination:

Provided that the persons nominated under clauses (xiii) and (xiv) shall hold office only for so long as they hold the appointments by virtue of which their nominations were made.

(5) The functions of the Board may be exercised notwithstanding any vacancy therein.

5. (1) The Board shall constitute a Registration Committee consisting of not more than five of its members, including the Drugs Controller, India—
Registration Committee.

(i) to register insecticides after scrutinising their formulae and verifying claims made by the importer or the manufacturer, as the case may be, as regards their efficacy and safety to human beings and vertebrate animals; and

(ii) to perform such other functions as are assigned to it by or under this Act.

(2) The Board shall appoint one of the members of the Committee to be the Chairman thereof.

(3) The Committee may also co-opt such number of experts and for such purpose or period as it may deem fit, but any expert so co-opted shall have no right to vote.

Other
commit-
tees.

6. The Board may appoint such other committees as it deems fit and may appoint to them persons who are not members of the Board, to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Board may impose, be delegated to them by the Board.

Procedure
for
Board.

7. The Board may, subject to the previous approval of the Central Government, make by-laws for the purpose of regulating its own procedure and the procedure of any committee thereof and the conduct of all business to be transacted by it or such committee.

Secretary
and other
officers.

8. The Central Government shall—

(i) appoint a person to be the Secretary of the Board who shall also function as Secretary to the Registration Committee; and

(ii) provide the Board and the Registration Committee with such technical and other staff as the Central Government considers necessary.

Registra-
tion of in-
secticides.

9. (1) Any person desiring to import or manufacture any insecticide may apply to the Registration Committee for the registration of such insecticide and there shall be a separate application for each such insecticide:

Provided that any person engaged in the business of import or manufacture of any insecticide immediately before the commencement of this section shall make an application to the Registration Committee within a period of six months from the date of such commencement for the registration of any insecticide which he has been importing or manufacturing before that date.

(2) Every application under sub-section (1) shall be made in such form and contain such particulars as may be prescribed.

(3) On receipt of any such application for the registration of an insecticide, the Committee may, after such enquiry as it deems fit and after satisfying itself that the insecticide to which the application relates conforms to the claims made by the importer or by the manufacturer, as the case may be, as regards the efficacy of the insecticide and its safety to human beings and vertebrate animals, register, on such conditions and on payment of such fee as may be prescribed, the insecticide, allot a registration number thereto and issue a certificate of registration in token thereof within a period of twelve months from the date of receipt of the application:

Provided that the Committee may, if it is unable within the said period to arrive at a decision on the basis of the materials placed

before it, extend the period by a further period not exceeding six months:

Provided further that if the Committee is of opinion that notwithstanding the observance of the precautions claimed by the applicant as being sufficient to ensure safety to human beings or vertebrate animals, the insecticide is likely to involve risk to human beings or vertebrate animals, it may refuse to register the insecticide.

10. If at any time after the issue of the certificate of registration under section 9, the Registration Committee is satisfied that by reason of the technical advancement in the field of insecticides an alternative insecticide but of a lesser toxicity in relation to human beings and vertebrate animals has been developed, it may, after giving notice of its intention so to do and after giving the importer or the manufacturer, as the case may be, a reasonable opportunity of showing cause against the proposed cancellation, cancel the certificate of registration issued in respect of any insecticide: Cancellation of registration.

Provided that the certificate of registration shall not be so cancelled before the expiry of three years from the date of receipt of the notice by the importer or the manufacturer, as the case may be.

11. Any person aggrieved by a decision of the Registration Committee under section 9 or section 10 may, within a period of thirty days from the date on which the decision is communicated to him, appeal in the prescribed manner and on payment of the prescribed fee to the Central Government whose decision thereon shall be final: Appeal against non-registration or cancellation.

Provided that the Central Government may entertain an appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

12. The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be licensing officers for the purposes of this Act and define the areas in respect of which they shall exercise jurisdiction. Licensing officers.

13. (1) Any person desiring to manufacture or to sell, stock or exhibit for sale or distribute any insecticide, may make an application to the licensing officer for the grant of a licence: Grant of licence.

Provided that any person engaged in the business of manufacturing or selling, stocking or exhibiting for sale or distributing any insecticide immediately before the commencement of this section shall make an application to the licensing officer for the grant of a licence within a period of three months from the date of such commencement.

(2) Every application under sub-section (1) shall be made in such form and shall contain such particulars as may be prescribed.

(3) On receipt of any such application for the grant of a licence, the licensing officer may grant a licence in such form, on such conditions and on payment of such fee as may be prescribed.

(4) A licence granted under this section shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fee as may be prescribed:

Provided that where a licence has been granted to any person who has made an application under the proviso to sub-section (1), that licence shall be deemed to be cancelled in relation to any insecticide, the application for registration whereof has been refused or the registration whereof has been cancelled, under this Act, with effect from the date on which such refusal or cancellation is notified in the Official Gazette.

Revoca-
tion, sus-
pension
and
amend-
ment of
licences.

14. (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

(a) the licence granted under section 13 has been granted because of misrepresentation as to an essential fact; or

(b) the holder of a licence has failed to comply with the conditions subject to which the licence was granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence.

(2) Subject to any rules that may be made in this behalf, the licensing officer may also vary or amend a licence granted under section 13.

Appeal
against
the
decision
of a licens-
ing officer.

15. (1) Any person aggrieved by a decision of a licensing officer under section 13 [except under the proviso to sub-section (4)] or section 14 may, within a period of thirty days from the date on which the decision is communicated to him, appeal to such authority in such manner and on payment of such fee as may be prescribed:

Provided that the appellate authority may entertain an appeal after the expiry of the said period if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of showing cause, dispose of the appeal as expeditiously as possible and the decision of the appellate authority shall be final.

16. The Central Government may, by notification in the Official Gazette, establish a Central Insecticides Laboratory under the control of a Director to be appointed by the Central Government to carry out the functions entrusted to it by or under this Act:

Central
Insecti-
cides
Labora-
tory.

Provided that if the Central Government so directs by a notification in the Official Gazette, the functions of the Central Insecticides Laboratory shall, to such extent as may be specified in the notification, be carried out at any such institution as may be specified therein and thereupon the functions of the Director of the Central Insecticides Laboratory shall to the extent so specified be exercised by the head of that institution.

17. (1) No person shall, himself or by any person on his behalf, import or manufacture—

Prohibi-
tion of
import
and manu-
facture of
certain in-
secticides.

(a) any misbranded insecticide;

(b) any insecticide the sale, distribution or use of which is for the time being prohibited under section 28;

(c) any insecticide except in accordance with the conditions on which it was registered;

(d) any insecticide in contravention of any other provision of this Act or of any rule made thereunder:

Provided that any person who has applied for registration of an insecticide under the proviso to sub-section (1) of section 9 may continue to import or manufacture any such insecticide and such insecticide shall not be deemed to be a misbranded insecticide within the meaning of sub-clause (vi) or sub-clause (vii) or sub-clause (viii) of clause (j) of section 3, until he has been informed by the Registration Committee of its decision to refuse to register the said insecticide.

(2) No person shall, himself or by any person on his behalf, manufacture any insecticide except under, and in accordance with the conditions of, a licence issued for such purpose under this Act.

Prohibition of sale, etc., of certain insecticides.

18. (1) No person shall, himself or by any person on his behalf, sell, stock or exhibit for sale, distribute, transport or cause to be used by any worker—

(a) any insecticide which is not registered under this Act;

(b) any insecticide, the sale, distribution or use of which is for the time being prohibited under section 28;

(c) any insecticide in contravention of any other provision of this Act or of any rule made thereunder.

(2) No person shall, himself or by any person on his behalf, sell, stock or exhibit for sale or distribute any insecticide except under, and in accordance with the conditions of a licence issued for such purpose under this Act.

Explanation.—For the purposes of this section an insecticide in respect of which any person has applied for a certificate of registration under the proviso to sub-section (1) of section 9, shall be deemed to be registered till the date on which the refusal to register such insecticide is notified in the Official Gazette.

Insecticide Analysts.

19. The Central Government or a State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit and possessing such qualifications as may be prescribed to be Insecticide Analysts for such areas and in respect of such insecticides or class of insecticides as may be specified in the notification:

Provided that no person who has any financial interest in the manufacture, import or sale of any insecticide, shall be so appointed.

Insecticide Inspectors.

20. (1) The Central Government or a State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit and possessing such qualifications as may be prescribed to be Insecticides Inspectors for such areas as may be specified in the notification:

Provided that any person who does not possess the required qualifications may be so appointed only for the purposes of clause (a) and clause (d) of sub-section (1) of section 21:

Provided further that no person who has any financial interest in the manufacture, import or sale of any insecticide shall be so appointed.

45 of 1860.

(2) Every Insecticide Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and shall be officially subordinate to such authority as the Government appointing him may specify in this behalf.

21. (1) An Insecticide Inspector shall have power—

Powers of
Insecticide
Inspection.

(a) to enter and search, at all reasonable times and with such assistance, if any, as he considers necessary, any premises in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed, or for the purpose of satisfying himself that the provisions of this Act or the rules made thereunder or the conditions of any certificate of registration or licence issued thereunder are being complied with;

(b) to require the production of, and to inspect, examine and make copies of, or take extracts from, registers, records or other documents kept by a manufacturer, distributor, carrier, dealer or any other person in pursuance of the provisions of this Act or the rules made thereunder and seize the same, if he has reason to believe that all or any of them, may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder;

(c) to make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or the rules made thereunder are being complied with and for that purpose stop any vehicle;

(d) to stop the distribution, sale or use of an insecticide which he has reason to believe is being distributed, sold or used in contravention of the provisions of this Act or the rules made thereunder, for a specified period not exceeding twenty days, or unless the alleged contravention is such that the defect may be removed by the possessor of the insecticide, seize the stock of such insecticide;

(e) to take samples of any insecticide and send such samples for analysis to the Insecticide Analyst for test in the prescribed manner; and

(f) to exercise such other powers as may be necessary for carrying out the purposes of this Act or the rules made thereunder.

5 of 1898.

(2) The provisions of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

(3) An Insecticide Inspector may exercise the powers of a police officer under section 57 of the Code of Criminal Procedure, 1898, for the purpose of ascertaining the true name and residence of the person from whom a sample is taken or an insecticide is seized.

Punish-
ment for
vexatious
seizure.

22. Any Insecticide Inspector exercising powers under this Act or the rules made thereunder who—

(a) vexatiously and without any reasonable grounds of suspicion seizes any insecticide, or

(b) commits any other act to the injury of any person without having any reason to believe that such act is necessary for the execution of his duty,

shall be guilty of an offence under this Act and shall be punishable for such offence with fine which may extend to five hundred rupees.

Procedure
to be fol-
lowed by
Insecticide
Inspec-
tors.

23. (1) Where an Insecticide Inspector seizes any record, register or document under clause (b) of sub-section (1) of section 21, he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof.

(2) Where an Insecticide Inspector takes any action under clause (d) of sub-section (1) of section 21—

(a) he shall use all despatch in ascertaining whether or not the insecticide or its sale, distribution or use contravenes any of the provisions of section 18 and if it is ascertained that the insecticide or its sale, distribution or use does not so contravene, forthwith revoke the order passed under the said clause or, as the case may be, take such action as may be necessary for the return of the stock seized;

(b) if he seizes the stock of the insecticide he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof;

(c) without prejudice to the institution of any prosecution, if the alleged contravention be such that the defect may be remedied by the possessor of the insecticide, he shall, on being satisfied that the defect has been so remedied, forthwith revoke his order and in case where the Insecticide Inspector has seized the stock of insecticide, he shall, as soon as may be, inform a Magistrate and obtain his orders as to the release thereof.

(3) Where an Insecticide Inspector takes any sample of an insecticide, he shall tender the fair price thereof and may require a written acknowledgment therefor.

(4) Where the price tendered under sub-section (3) is refused, or where the Insecticide Inspector seizes the stock of any insecticide under clause (d) of sub-section (1) of section 21, he shall tender a receipt therefor in the prescribed form.

(5) Where an Insecticide Inspector takes a sample of an insecticide for the purpose of test or analysis, he shall intimate such purpose in writing in the prescribed form to the person from whom he takes it and, in the presence of such person unless he wilfully absents himself, shall divide the sample into three portions and effectively seal and suitably mark the same and permit such person to add his own seal and mark to all or any of the portions so sealed and marked:

Provided that where the insecticide is made up in containers of small volume, instead of dividing a sample as aforesaid, the Insecticide Inspector may, and if the insecticide be such that it is likely to deteriorate or be otherwise damaged by exposure shall, take three of the said containers after suitably marking the same and, where necessary, sealing them.

(6) The Insecticide Inspector shall restore one portion of a sample so divided or one container, as the case may be, to the person from whom he takes it and shall retain the remainder and dispose of the same as follows:—

(i) one portion or container, he shall forthwith send to the Insecticide Analyst for test or analysis; and

(ii) the second, he shall produce to the court before which proceedings, if any, are instituted in respect of the insecticide.

24. Every person for the time being in charge of any premises where any insecticide is being manufactured or is kept for sale or distribution shall, on being required by an Insecticide Inspector so to do, be legally bound to disclose to the Insecticide Inspector the place where the insecticide is being manufactured or is kept, as the case may be.

Persons bound to disclose place where insecticides are manufactured or kept.

25. (1) The Insecticide Analyst to whom a sample of any insecticide has been submitted for test or analysis under sub-section (6) of section 23, shall deliver to the Insecticide Inspector submitting it a signed report in duplicate in the prescribed form.

Report of Insecticide Analyst.

(2) The Insecticide Inspector on receipt thereof shall deliver one copy of the report to the person from whom the sample was taken

and shall retain the other copy for use in any prosecution in respect of the sample.

(3) Any document purporting to be a report signed by an Insecticide Analyst shall be evidence of the facts stated therein, and such evidence shall be conclusive unless the person from whom the sample was taken has within twenty-eight days of the receipt of a copy of the report notified in writing the Insecticide Inspector or the court before which any proceedings in respect of the sample are pending that he intends to adduce evidence in controversion of the report.

(4) Unless the sample has already been tested or analysed in the Central Insecticides Laboratory, where a person has under sub-section (3) notified his intention of adducing evidence in controversion of the Insecticide Analyst's report, the court may, of its own motion or in its discretion at the request either of the complainant or of the accused, cause the sample of the insecticide produced before the magistrate under sub-section (6) of section 23 to be sent for test or analysis to the said laboratory, which shall make the test or analysis and report in writing signed by, or under the authority of, the Director of the Central Insecticides Laboratory the result thereof, and such report shall be conclusive evidence of the facts stated therein.

(5) The cost of a test or analysis made by the Central Insecticides Laboratory under sub-section (4) shall be paid by the complainant or the accused, as the court shall direct.

Confiscation.

26. Where any person has been convicted under this Act for contravening any of the provisions of this Act or of the rules made thereunder, the stock of the insecticide in respect of which the contravention has been made shall be liable to confiscation.

Notification of poisoning.

27. The State Government may, by notification in the Official Gazette, require any person or class of persons specified therein to report all occurrences of poisoning (through the use or handling of insecticides) coming within his or their cognizance to such officer as may be specified in the said notification.

Prohibition of use of insecticide for reasons of public safety.

28. (1) If, on receipt of a report under section 27 or otherwise, the Central Government or the State Government is of opinion that the use of an insecticide is likely to involve such risk to human beings or vertebrate animals as to render it expedient or necessary to take immediate action, then that Government may, by notification in the Official Gazette, prohibit the sale, distribution or use of

such insecticide and for such period as may be specified in the notification pending investigation into the matter:

Provided that where the investigation is not completed within the said period, the Central Government or the State Government, as the case may be, may extend it by such further period or periods as it may specify in a like manner.

(2) If, as a result of its own investigation or on receipt of the report from the State Government, and after consultation with the Registration Committee, the Central Government is satisfied that the use of the said insecticide is or is not likely to cause any such risk, it may pass such order (including an order refusing to register the insecticide or cancelling the certificate of registration, if any, granted in respect thereof), as it deems fit, depending on the circumstances of the case.

29. A refusal to register any insecticide or a cancellation of the certificate of registration of any insecticide shall be notified in the Official Gazette and in such other manner as may be prescribed.

Notification of cancellation of registration, etc.

30. (1) Whoever,—

Offences and punishment.

(a) imports, manufactures, sells, stocks or exhibits for sale or distributes any insecticide deemed to be misbranded under sub-clause (i) or sub-clause (iii) or sub-clause (viii) of clause (j) of section 3; or

(b) imports or manufactures any insecticide without a certificate of registration; or

(c) manufactures, sells, stocks or exhibits for sale or distributes an insecticide without a licence; or

(d) sells, distributes or uses an insecticide, in contravention of section 28; or

(e) obstructs an Insecticide Inspector in the exercise of his powers or discharge of his duties under this Act or the rules made thereunder;

shall be punishable—

(i) for the first offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees;

(ii) for the second offence, with imprisonment for a term which may extend to three years and with fine;

(iii) for the third and a subsequent offence, with imprisonment for a term which may extend to six years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than—

(i) one year for the first offence;

(ii) two years for the second offence;

(iii) three years for the third and a subsequent offence.

(2) Whoever contravenes any of the other provisions of this Act or any rule made thereunder or any condition of a certificate of registration or licence granted thereunder, shall be punishable—

(i) for the first offence, with imprisonment for a term which may extend to two years, or with fine, or with both;

(ii) for the second and a subsequent offence, with imprisonment for a term which may extend to three years and with fine.

(3) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published in such newspapers or in such other manner as the court may direct.

Defences
which
may or
may not
be allowed
in prosecutions
under
this Act.

31. (1) Save as hereinafter provided in this section, it shall be no defence in a prosecution under this Act to prove merely that the accused was ignorant of the nature or quality of the insecticide in respect of which the offence was committed or of the risk involved in the manufacture, sale or use of such insecticide or of the circumstances of its manufacture or import.

(2) For the purposes of section 17, an insecticide shall not be deemed to be misbranded only by reason of the fact that—

(a) there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or the preparation of the insecticide as an article of commerce in a state fit for carriage or consumption, and not to increase the bulk, weight or measure of the insecticide or to conceal its inferior quality or other defect; or

(b) in the process of manufacture, preparation or conveyance some extraneous substance has unavoidably become intermixed with it.

32. (1) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of, the State Government or a person authorised in this behalf by the State Government.

Cognizance and trial of offences.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.

5 of 1898.

33. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any presidency magistrate or any magistrate of the first class to pass any sentence under this Act, in excess of his power under section 32 of the said Code.

Magistrate's power to impose enhanced penalties.

34. (1) Whenever an offence under the Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of, the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

35. The Central Government may give such directions to any Government as may appear to the Central Government to be carrying into execution in the State any of the provisions of any rule or order made thereunder.

Power of Central Government to give directions.

Protection
of action
taken in
good
faith.

36. No prosecution, suit or other proceeding shall lie against the Government, or any officer of the Government or the Board or any Committee thereof for anything in good faith done or intended to be done under this Act.

Power of
Central
Govern-
ment to
make
rules.

37. (1) The Central Government may, after consultation with the Board and subject to the condition of previous publication, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this Act:

Provided that consultation with the Board may be dispensed with if the Central Government is of opinion that circumstances have arisen which render it necessary to make rules without such consultation, but in such a case the Board shall be consulted within six months of the making of the rules and the Central Government shall take into consideration any suggestions which the Board may make in relation to the amendment of the said rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the method of packing and labelling;
- (b) the manner of registration of an insecticide;
- (c) the functions of the Board;
- (d) the places at which insecticides may be imported and prohibit their import at any other place;
- (e) the form of application for registration of an insecticide and the particulars relating thereto;
- (f) the conditions of registration and the fee payable in respect of registration;
- (g) the manner of appeal to the Central Government under section 11 and the fee payable therefor;
- (h) the form of application for the grant of licence and the particulars relating thereto;
- (i) the form of licence, the conditions attached thereto and the fee payable therefor;
- (j) the period for which a licence may be renewed and the fee for such renewal;
- (k) the circumstances in which a licence may be amended under sub-section (2) of section 14;
- (l) the functions of the Central Insect

(m) the qualifications, powers and duties of an Insecticide Analyst and an Insecticide Inspector;

(n) the manner of testing or analysing the samples of any insecticide;

(o) the form in which intimation shall be given by an Insecticide Inspector under sub-section (5) of section 23 to a person from whom a sample of an insecticide is taken for test or analysis;

(p) the form in which an Insecticide Analyst shall submit a report of his test or analysis to the Insecticide Inspector under sub-section (1) of section 25;

(q) the protective clothing and equipment to be used by workers and other facilities to be provided to enable them to keep the things supplied to them free from any contamination;

(r) the use by the workers of any such protective clothing, equipment and other facilities;

(s) the precautions to be taken against poisoning through the use or handling of insecticides;

(t) the measures for detecting and investigating cases in which poisoning has occurred;

(u) the facilities to be provided for ensuring first-aid treatment;

(v) the instruction and training to be provided regarding the use of things supplied to the workers for ensuring their safety;

(w) the facilities for medical examination of workers engaged in the manufacture or handling of insecticides;

(x) the conditions to be observed in regard to import, manufacture, sale, transport, distribution, storage or use of an insecticide;

(y) the maintenance and inspection of records and returns;

(z) the restrictions on storage of insecticides during transport or otherwise along with articles of food;

(za) the maximum proportion of any insecticide which may be added to, or contained in, any preparation for domestic use and the restrictions thereon;

(zb) the manner in which refusal to register an insecticide or cancellation of certificate of registration thereof may be notified;

(zc) the officer or authority to whom the Central Government may delegate any of the powers and functions conferred on it by this Act;

(zd) any other matter which has to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of
the State
Govern-
ment to
make
rules.

38. (1) The State Government may, after consultation with the Board and subject to the condition of previous publication, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this Act and not inconsistent with the rules, if any, made by the Central Government.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the authority to which, the manner in which, and the fee on payment of which, an appeal may be filed under section 15 and the procedure to be followed by the appellate authority in disposing of the appeal;

(b) the delegation of any of the powers and functions conferred by this Act on the State Government to any officer or authority specified by that Government.

Exemp-
tion.

39. The Central Government may, by notification in the Official Gazette, and subject to such conditions, if any, as it may specify in such notification, exempt from all or any of the provisions of this Act or the rules made thereunder—

(a) any person or class of persons who use any of the insecticides for their own household purposes or horticultural gardens;

(b) any insecticide which, in the opinion of that Government, is not highly toxic to the health of human beings or vertebrate animals, if used under proper direction.

THE SCHEDULE

[See section 3 (d)]

LIST OF INSECTICIDES

Acrylonitrile
 Aldrin (1 : 2 : 3 : 4 : 10 : 10-hexachloro-1 : 4 : 4a; 5 : 8; 8a-hexahydro-1 : 4 : 5 : 8-dimethanonaphthalene)
 Allethrin (allyl homologue of Cinerein I)
 Aluminium Phosphide
 Amiton
 Antu (Alpha-naphthyl thiourea)
 Aramite [2(p-tert-butylphenoxy) isopropyl 1-2 chloroethyl sulphite]
 Barium Carbonate
 Barium Fluoro Silicate
 BHC (Benzene Hexachloride) (1, 2, 3, 4, 5, 6-hexachlorohexane)
 Bis-dimethylamino Flourophosphine Oxide
 Calcium Arsenate
 Calcium Cyanide
 Captan (N-trichloromethylmercapto-4-cyclohexane) 1, 2-discarbox imide
 Carbaryl (1-naphtyl-N-methyl carbamate)
 Carbon Disulphide
 Carbon Tetrachloride
 Chlorbenside (p-chlorobenzyl-p-chlorophenyl sulphide)
 Chlorbis ethyl amino triazine
 Chlordane (1, 2, 3, 4, 5, 6, 7, 8, 8-Octachlore-2, 3, 3a, 4, 7, 7a-hexahydro-4, 7-methanoindane)
 Chlorobenzilate (Ethyl 4, 4'-dichlorobenzilate)
 Chlorothion (o, o-dimethyl-o-3-chloro-4-nitrophenyl thiono phosphate)
 Chloro-I.P.C.
 Chloropicrin
 Chlorofenson (p-chlorophenyl-p-chlorobenzene sulphonate)
 S-(p-chlorophenylthio) methyl-o-o-diethyl phosphorodithioate (Trithion)
 CIPC [isopropyl-N(3-chlorophenyl) carbamate]
 CMU (Manuron)
 Copper Arsenate
 Copper Cyanide
 Copper naphthanate
 Copper Sulphate
 Coumachlor [3-(a-acetonyl-4-chlorobenzyl-4-hydroxy coumarin)]
 Copper Oxychloride

Cuprous Oxide
 Dalapon (Sodium 2, 2, dichloropropionate)
 D-D mixture
 DDD (Dichloro Diphenyl Dichloroethane)
 DDT [a mixture of 1, 1, 1-trichloro-2, 2-bis, (p-chlorophenyl) ethane and 1, 1, 1-trichloro-2-(o-chlorophenyl)-2(p-chlorophenyl) ethane]
 DDVP (2, 2-dichlorovinyl dimethyl phosphate)
 Demeton-O (O, O-diethyl-S[2-(ethylthio)-ethyl] phosphorothioate)
 Demeton-S (O, O-diethyl-S[2-(ethylthio)-ethyl] phosphorothioate)
 Diazinon (O, O-diethyl-O [2-isopropyl-6-methyl-4-pyrimidinyl] phosphorothioate)
 Dibrom (1, 2-dibromo, 2, 2-dichloroethyl dimethyl phosphate)
 Dichlorophenoxy acetic acid (2, 4-D)
 Dieldrin (1 : 2 : 3 : 4 : 10 : 10-hexachloro-6 : 7-epoxy-1 : 4a : 5 : 6 : 7 : 8 : 8a Octahydro-1 : 4 : 5 : 8-dimethano-naphthalene)
 Dimethoate (O, O-dimethyl-S-(N-methylcarbamoyl methyl) phosphorodithioate)
 Dipterex (O,O-dimethyl-2, 2, 2-trichloro hydroxy ethyl phosphonate)
 DNOC (Dinitro-ortho-compound) (3 : 5-dinitro-o-cresol)
 EDCT mixture (Ethylene Dichloride Carbon Tetrachloride mixture)
 Ekatin
 Endrin (1, 2, 3, 4, 10-10-hexachlore-6, 7-epoxy-1, 4, 4a, 5, 6, 7, 8, 8a-Octahydro-1, 4-endo-endo, 5-8-dimethanonaphthalene)
 E.P.N. (O-ethyl-O-p-nitriphenyl benzene thiophosphonate)
 Ethoxy ethyl mercury chloride
 Ethyl di-n-propylthiolcarbamate (Eptam)
 Ethyl mercury phosphate
 Ethyl mercury chloride
 Ethylene dibromide
 Ethylene Dichloride
 Fenson (Parachlorophenyl benzene sulphonate)
 Fenthion (3-methyl-4-methyl thiophenyl phosphorathionate)
 Ferbam (Ferric Dimethyl dithio Carbamate)
 Gusathion (O, O-dimethyl S (4-oxo-1, 2, 3-benzotriazinyl-3-methyl) phosphorothioate)
 Heptachlor (1, 4, 5, 6, 7, 8, 8-heptachloro-4-7-methano-3a, 4, 7, 7a-tetrahydroindene)
 HETP (Hexaethyl tetraphosphate)
 Hexachlorobenzene
 Hydrogen Cyanide
 Hydrogen Phosphide
 Lead arsenate
 Lime Sulphur (Calcium Polysulphide, water-free sulphur, calcium thio-sulphate mixture)

Lindane (gamma. B.H.C.)
 Malathion (S-(1, 2-Bis(ethoxycarbonyl) ethyl) O,O-dimethyl-phosphoro-dithioate)
 Maleic hydrazide (1, 2-dihydropyridazine 3, 6-dione)
 Maneb (Manganese ethylene bisdithiocarbamate)
 MCPA- (4-chloro-2 Methyl phenoxy acetic acid)
 Mercuric Chloride
 Metaldehyde
 Metasystox
 Methoxychlor (1, 1, 1-trichloro-2, 2-di-p-methoxyphenylethane)
 Methoxy ethyl mercury chloride
 Methyl bromide
 Methyl demeton (Dimeton-methyl and Dimeton-s-Methyl)
 Methyl Mercury Chloride
 Methyl Parathion (O, O-dimethyl-O-P-nitrophenylthiophosphate)
 Metox (Chlorsulphicide)
 Nabam (Disodium ethylene-1, 2-bisdithiocarbamate)
 Nicotine sulphate
 Octa methyl phyrophosphoramide
 Para-dichloro benzene
 Parathion (O, O-diethyl-O-P-nitrophenylthiophosphate)
 Paris Green (Copper Aceto arsenite)
 Pentachloronitrobenzene (P.C.N.B.)
 Pentachlorophenol
 Phenyl mercury acetate
 Phenyl mercury chloride
 Phenyl mercury urea
 Phosdrine
 Phthalimidomethyl-O-O-dimethyl phosphorodithioate (Imidan)
 Piperonyl butoxide (butyl carbityl) (6-propyl piperonyl) ether O
 Pival (2-Pivalyl-indane 1-3-dione)
 Potassium Cyanide
 n-Propyl ethyl-n-butyl thiolcarbamate (Tillam)
 Pyrethrins (insectically active principles of *Chrysanthemum cinerariaefolium*)
 Rotenone
 Ryania
 Sodium fluoroacetate
 Sodium cyanide
 Sodium Fluoro Silicate
 Sulphur (wetttable or colloidal sulphur)
 Strychnine
 Sulphoxide (1, 2-methylene-dioxy-4 (2-octylsulphiny) propyl benzene)

TCA (trichlor aceti acid sodium and ammonium salts)

Tedion (tetrachlor diphenyl sulphone)

TEPP (tetraethyl Pyrophosphate)

Tetrachloro-p-benzoquinone

Thanite

Thiram (bis (dimethyl Thiocarbamyl) disulphide)

Tolyl mercury acetate

Trichlorphon

Triorthocresyl Phosphate

Thallium sulphate

Thiometon

Toxaphene (chlorinated camphene containing 67-69% chlorine)

Trichlorophenoxy acetic acide (2, 4, 5-T)

Warfarin (3-a-acetonyl benzyl-4-hydroxy-coumarin)

Zinc Phosphide

Zimet

Zineb (Zinc Ethylene bis-dithiocarbamate)

Ziram (Zinc dimethyl-dithiorcarbamate)

Zulate

STATEMENT OF OBJECTS AND REASONS

In the months of April and May, 1958, many persons died in the States of Kerala and Madras as a result of food poisoning arising from contamination of food with a poisonous organo-phosphorus insecticide 'Parathion' (Falidol). There were also cases of persons who fell seriously ill though not fatally on account of food poisoning in the same areas. The Government of India appointed the Kerala and Madras Food Poisoning Cases Enquiry Commission under the Chairmanship of Shri Justice J. C. Shah then a Judge of the High Court of Bombay and now a Judge of the Supreme Court to inquire into and report on the circumstances in which the food-stuffs came to be contaminated and the measures to be taken against similar occurrences in future.

2. The recommendations of the Enquiry Commission were accepted by the Government. The Government then appointed an Inter-Ministerial Committee to suggest measures to give effect to the recommendations made by the Commission. Accordingly the Inter-Ministerial Committee suggested certain short term and long term measures. The short term measures suggested by the Committee have already been given effect to. The long term measure suggested by the Commission envisaged the enactment of legislation to regulate the manufacture, sale, storage, transport, distribution and use of insecticides including pesticides, herbicides or fungicides in the country.

3. Subsequent to the poisoning cases in 1958 in Kerala and Madras, cases of food poisoning were also reported in 1962 in Malda and Dinajpur Districts of West Bengal and Assam respectively as a result of which 450 persons were crippled by paralysis. Contamination of wheat flour with 'Tri-ortho-cresyl phosphate' was the cause of poisoning. Cases of food poisoning were reported in Bombay and in January-February, 1963 as a result of ingestion of rice stored in bags which were reportedly sprayed with 5 per cent. Benzene Hexachloride. Reports have also been received about cases of poisoning due to the indiscriminate use of organo-phosphorus compounds like Parathion Malathion, Diazinon, Baytex, etc., which are said to be marketed in concentrated form for extermination of bed bugs. Cases of poisoning resulting from the use of Copper Sulphate among the shoe workers of Agra have also been brought to notice.

4. This Bill follows the recommendations of the Commission referred to in para 2. The salient features of the Bill are as follows:—

(i) establishment of a Central Insecticides Board and the setting up of a Committee called the 'Registration Committee' for the purpose of granting certificates of registration to persons desiring to import or manufacture insecticides;

(ii) licensing of persons desiring to manufacture, sell or exhibit for sale or distribute any insecticide;

(iii) establishment of a Central Insecticide Laboratory for carrying out certain functions under the Act;

(iv) prohibition of import, manufacture, sale, etc., of insecticides in contravention of the provisions of the Act;

(v) regulation of transport and storage of insecticides so as to prevent cases of accidental contamination of food with insecticides;

(vi) provision for taking immediate action by way of prohibition of sale, distribution or use of any insecticide where it is found that the sale, distribution or use of the insecticide is being done in such a way as to involve risk to human beings or vertebrate animals and where immediate action is necessary.

NEW DELHI;
The 4th December, 1964.

SUSHILA NAYAR.

FINANCIAL MEMORANDUM

The scheme of this Bill centres round the registration of insecticides and the system of licensing their manufacture and sale. The establishment of a Central Insecticides Board and a Registration Committee to register the insecticides has been proposed. Whereas the major work of enforcement of the provisions of the proposed Insecticides Bill will have to be undertaken by the State Governments, the Central Government will, *inter alia*, have to carry out the following functions:—

(i) Under clause 4 the Central Insecticides Board will have to be appointed to advise the Central and State Governments on technical matters arising out of the administration of the Act and to carry out the other functions assigned to it under this Act.

(ii) Under clause 5, a Registration Committee to register insecticides after scrutinising their formulae and their claims as regards efficacy and safety to human beings and vertebrate animals, has to be constituted.

(iii) Under clause 16, the Central Government may establish a Central Insecticides Laboratory to carry out the functions assigned to it under the Act or the Central Government may notify any Institution to carry out the functions of the Central Insecticides Laboratory.

(iv) Under clause 17, the Central Government shall be required to ensure that no insecticide is imported whose import has been prohibited under this clause.

(v) Under clause 19 the Central Government may appoint Insecticides Analysts for testing insecticides.

(vi) Under clause 20 the Central Government have been empowered to appoint Insecticide Inspectors with a view to assist the States in the effective enforcement of the provisions of the Act.

(vii) Under clause 35 the Central Government has been given powers to give directions to the States for carrying into execution in the States any of the provisions of the Act or of any rule or order made thereunder.

(viii) Under clause 37, the Central Government have to frame rules under the various provisions of the Act after consultation with the Central Insecticides Board.

The expenditure of the Central Government for carrying out the above functions is estimated at Rs. 4,50,000 non-recurring and Rs. 2,64,000 recurring. The expenditure will be met from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 37 of the Bill empowers the Central Government to make rules in respect of certain matters such as registration, grant of licence, functions of the Central Insecticides Laboratory, the qualifications, powers and duties of Insecticide Analysts and Inspectors, and protective clothing, equipment and other facilities to be made available to the workers.

Likewise, clause 38 empowers the State Government to make rules not inconsistent with the rules made by the Central Government in this behalf.

The matters in respect of which rules may be made are matters of administrative detail and procedure. The delegation of legislative power is, therefore, of a normal character.

B. N. BANERJEE,
Secretary.

